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Montana EEOAA

Equal Employment Opportunity and Affirmative Action Program

Report to the Governor

for the period

July 1, 1986 to September 30, 1987

Equal Employment Opportunity Section
Employee Relations Bureau
State Personnel Division
Department of Administration

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THE MONTANA EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PROGRAM'S REPORT TO THE GOVERNOR WAS PREPARED BY THE STAFF OF THE STATE PERSONNEL DIVISION, DEPARTMENT OF ADMINISTRATION

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CHAPTER I

EXECUTIVE SUMMARY

A. REASON FOR EEO/AA PROGRAM AND ANNUAL REPORT

Title VII of the Civil Rights Act of 1964 requires that all persons be given equal opportunity in employment regardless of their sex, race, national origin, religion, or age. Montana's Human Rights Act and Governmental Code of Fair Practices provide the same protection and add marital status, handicap and political belief as protected categories.

Executive Order 24-81, signed by Acting Governor George Turman on October 13, 1981, (See Appendix A), commits the executive branch of state government to an Equal Employment Opportunity Program. The major program objective is to "eliminate discrimination in personnel salaries and procedures, job structuring and classification, hiring, firing, promoting and training." The Department of Administration is charged with implementing and maintaining the program. This annual report describes the program's status.

B. CONTENT OF REPORT

This report summarizes the executive branch's employment of classes of citizens protected under both federal and state law, including recommendations for improving areas of concern. It also summarizes the activities of the EEO Section of the State Personnel Division, Department of Administration, which is the work unit responsible for administration of the EEO Program. Relevant U.S. Supreme Court decisions are reviewed.

C. FINDINGS AND RECOMMENDATIONS

A review of the employment of protected classes in the executive branch in FY 87 shows that while gains have been made in some areas, other areas still need improvement.

Minorities

3.1% of executive branch employees are minorities as compared to a 4.8% representation in the Montana civilian labor force. The selection rate (percent of applicants hired) for minorities was 9.4% as compared to 9.2% for whites. Therefore, discrimination in the selection process is not an overall problem. Minorities represented 4.1% of all applicants, lower than their labor force availability. Since utilization of minorities needs improvement and the selection rate is acceptable, the state needs to focus affirmative action measures to attract a larger number of qualified minority applicants.

Disabled

3.3% of executive branch employees are disabled as compared to an estimated 5.0% representation in the Montana civilian labor force.

The selection rate for the disabled was 8.1% as compared to 9.3% for the non-disabled. While this statistical difference does not indicate a major problem, it does imply the need for more training of hiring officials on reasonable accommodation for the disabled.

The disabled represented 2.6% of all applicants, considerably lower than their estimated 5.0% availability in the labor force. The executive branch's affirmative action measures for the disabled should, consequently, focus on attracting a larger number of qualified disabled applicants.

Women

45.9% of executive branch employees are women as compared to a 42.6% representation in the Montana civilian labor force. While women are well represented overall in the state work force, women are still concentrated in lower paying occupational categories such as clerical, and in the lower levels of the higher paying occupational categories such as professionals and managers.

In EEO Category A, Administrators and Officials, the overall representation of women has improved. Women are 20.7% of executive branch employees in Category A, as compared to a 30.6% representation in the Montana civilian labor force. While selection and internal promotion rates for women in this category are very good, women represent only 13.6% of all applicants. The state's affirmative action measures for women in this category should, therefore, focus on both attracting a much larger number of qualified applicants, and training more women for management positions.

In Category B, Professionals, women comprise 40.0% of executive branch employees as compared to their 49.1% representation in Montana's civilian labor force. However, a large proportion of women professionals in the labor force are teachers, an occupation not prevalent in the state workforce. Analysis of professional occupations in the state's workforce indicates that an availability closer to 40% is more appropriate. Using the 40% as the availability figure, the state as a whole has reached parity in the professional category.

Although overall parity has been reached in Category B, there are still a number of occupational groups in the workforce that have fewer women represented as compared to their representation in the labor force. Individual agencies need to monitor and take steps to reach parity in these occupations.

Special attention should be given overall to higher paying job classes in state government which traditionally have not employed women. College enrollment and graduation statistics show that women are receiving education in areas which they have not participated in the past, such as engineering and forestry. There are also non-professional occupational groups requiring little or no prior training at the entry level in which women are underrepresented. Agencies should be aware of the availability of qualified women in these non-traditional occupations, and ensure that they receive equal opportunities in the recruitment and selection process.

CHAPTER II

EMPLOYMENT OF WOMEN, MINORITIES AND THE DISABLED

A. EEO/AA PROGRAM STATISTICAL RECORD KEEPING & REPORTING

The executive branch is required by federal and state laws and regulations to keep comprehensive records on the sex, race, age, and disability status of both employees and applicants. This data is essential for an effective state EEO/AA program. Such data can identify those personnel practices which unfavorably impact or discriminate against protected groups.

The state collects EEO information through the computerized Personnel/Payroll/Position Control (P/P/P) System.

The P/P/P system contains information on all state employees and on applicants for state jobs. For applicants, EEO information is collected on a tear off portion of the state application form. For employees, EEO information is collected and updated using a special input form.

These automated records produce statistical reports used to analyze the state's employment practices.

During FY 87, two significant changes occurred in the state's procedures for gathering EEO information.

Changes in EEO-4 Category Assignments

All occupations are organized into eight (8) EEO categories by the Equal Employment Opportunity Commission (EEOC) to facilitate in-depth analysis of the employment of protected groups. (See Appendix B for EEO-4 Category definitions). EEOC guidelines require a breakdown of an employer's workforce into these categories for reporting purposes and suggest that employers use the categories to assess their own EEO performance.

During FY 87, a major review was undertaken to see how state job classes were assigned to EEO-4 categories. In the review, job class specifications were carefully compared to the definition of each EEO-4 category. Any inappropriate category assignments were identified and changed. These changes will result in a more accurate representation of the state workforce.

The analyses in this report and reports of previous years use EEO-4 categories in reporting employment levels. The changes in category assignments will affect comparison of this year's statistics with previous year's. For example, there was a significant increase in the percentage representation of women employed by the state in EEO-4 Category A, Administrators and Officials, in 1987 as compared to 1986 (see Table A, page 4). We know, however, that a portion of this increase is due to the reassignment of job classes with a higher percentage of women to Category A. Conversely, the decrease in female representation in Category E, Para professionals, is partially the result of the reassignment job classes with a high representation of women to a different category.

TABLE A

EEO PROFILE OF PERMANENT EMPLOYEES

By Job Category
As of October 9, 1987

Includes Comparison to June 30, 1986

EEO Category	Total Number 86	Total Number 87	% Female 86	% Female 87	% Minorities 86	% Minorities 87	% Disabled 86	% Disabled 87
A. Administrators & Officials	498	639	17.1	20.7	2.4	2.4	3.2	3.3
B. Professionals	3,172	2,884	37.0	40.0	2.4	2.7	3.5	3.8
C. Technicians	1,892	1,784	53.3	54.0	3.6	3.4	2.7	2.7
D. Protective Services	573	601	7.5	9.0	2.4	1.8	1.8	1.5
E. Para Professional	912	748	69.3	61.8	3.3	4.5	2.4	3.6
F. Clerical	1,530	1,408	89.8	89.8	2.7	3.2	1.8	2.5
G. Skilled Craft	473	723	1.7	4.4	3.8	4.6	3.4	4.6
H. Service & Maintenance	569	452	15.3	39.8	4.9	3.8	2.8	4.2
STATE TOTAL	9,619	9,259	45.4	45.9	3.0	3.2	2.8	3.3

EEO Survey of Executive Branch Employees

A survey of all executive branch employees was undertaken August 26, 1987, to update records and correct errors in existing EEO information. Each employee was asked to provide information concerning race, sex, age, disability and veteran status on a new EEO Input Form (see Appendix C for EEO Input Form). The survey resulted in changes in the number of state employees identified as disabled or minority. The survey did not have a significant impact on data on women.

Changes in the percentage of a protected class employed by the state compared to previous years may partially be a result of updated information, as opposed to a real increase or decrease in the number of protected class members actually employed. For example, the increase from 1986 to 1987 in the number of handicapped employees employed in EEO-4 Category F, Office & Clerical, may be the result of reporting some clerical employees as handicapped who were not so identified before, rather than an actual increase in the number of handicapped clerical employees.

The EEO survey was completed near the end of September, 1987. Data on the state's workforce used in this report is current as of October 9, 1987, instead of the end of the fiscal year, June 30, 1987.

Types of Analysis Used in this Report

The analysis used in this report is similar to statistics used by state agencies to examine their employment of protected groups. When examining their employment, agencies do a more detailed analysis including data on individual occupations.

Workforce Analysis which is a report on the number of state employees by race, sex, and disability in each EEO-4 Category (See Appendix B for EEO-4 Category definitions). (See Table A on page 4.)

Availability Analysis estimates the percentage of minorities and women in the Montana civilian labor force who have the skills necessary for entry into each EEO-4 category. U.S. census data for Montana is used in estimating availability figures.

Utilization Analysis compares the state's workforce (Workforce Analysis) to Montana's civilian labor force (Availability Analysis) to determine whether or not a protected group is underutilized. Underutilization means having fewer minorities or women employed in a particular category than would be reasonably expected compared to their availability in the same category in the civilian labor force. This type of analysis is one commonly used by the EEOC and the courts as a first step in assessing the existence of employment discrimination.

Whenever underutilization is identified, recruitment and selection data are reviewed to determine the causes of the underutilization.

Applicant Flow Analysis examines the recruitment and selection of applicants to determine if these activities contribute to an underutilization problem.

A recruitment problem means there are fewer minorities or women applying for positions than would reasonably be expected compared to their availability in the civilian labor force. (See Table B on page 7.)

A selection or hiring problem means selection practices have an adverse impact on protected groups. A selection problem is commonly identified by comparing the selection rate of a protected group to the selection rate of the rest of the labor force, (i.e., comparing the selection rate of minorities to the selection rate of non-minorities). If a protected group's selection rate is significantly lower than the selection rate for other groups, then a selection problem exists. (See Table C on page 8.)

In each of the following sections on women, minorities and the disabled, the analyses explained above are applied to assess the state's performance in the employment of protected groups, and to identify problem areas which should be addressed by state agencies in the future through affirmative action.

B. EMPLOYMENT OF MINORITIES

Under Title VII of the Civil Rights Act and under Montana's Human Rights Act, American Indians/Alaskan Natives, Asian/Pacific Islanders, Blacks, and Hispanics are considered minorities (see back page of EEO Input Form, Appendix C for definitions of each group). The employment of minorities is discussed using the total workforce, because Montana civilian labor force and state workforce numbers are too small to draw meaningful conclusions for individual job categories.

TABLE D

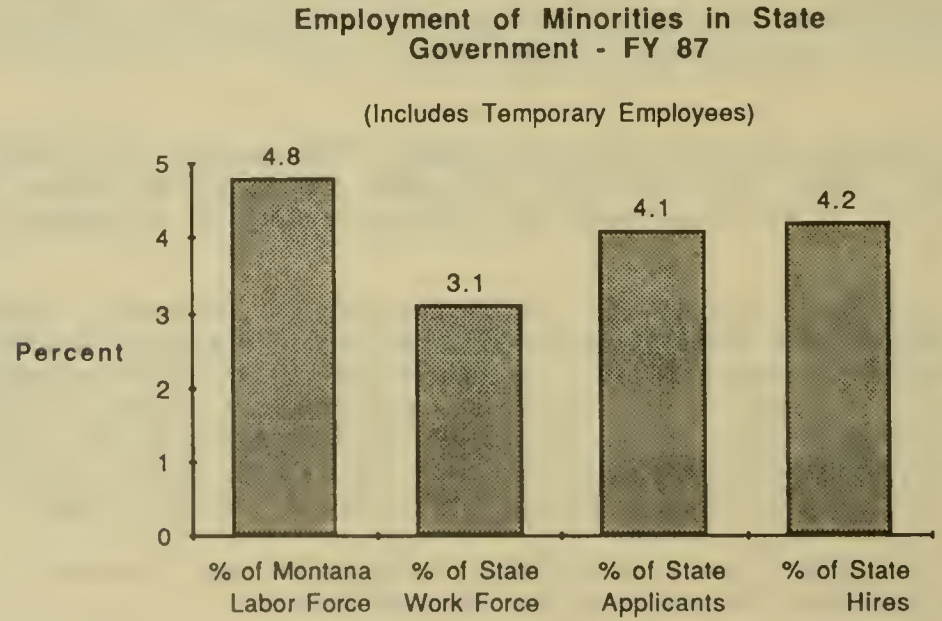


TABLE B
APPLICANT FLOW ANALYSIS/APPLICATION RATES
FY 87 (July 1, 1986 - June 30, 1987) *

EEO Category	Men	Women	LF**	White	Minorities	Non-Disabled	Disabled
Admin. & Officials							
No. Applicants	290	47		318	13	334	13
Application Rate	83.6%	13.5%	30.6%	91.6%	3.7%	96.2%	3.8%
Professionals							
No. Applicants	3,145	1,636		4,438	154	4,832	135
Application Rate	63.3%	32.9%	49.1%	89.3%	3.1%	97.3%	2.7%
Technicians							
No. Applicants	1,600	1,165		2,518	134	2,739	76
Application Rate	56.8%	41.4%	49.3%	89.5%	4.8%	97.3%	2.7%
Protective Services							
No. Applicants	1,167	226		1,292	73	1,385	52
Application Rate	81.2%	15.7%	11.3%	89.9%	5.1%	96.4%	3.6%
Para Professional							
No. Applicants	784	1,042		1,731	75	1,829	27
Application Rate	42.2%	56.1%	***	93.3%	4.0%	98.5%	1.5%
Clerical							
No. Applicants	658	3,057		3,395	179	3,729	92
Application Rate	17.2%	80.0%	81.8%	88.8%	4.7%	97.6%	2.4%
Skilled Craft							
No. Applicants	125	3		122	4	128	5
Application Rate	94.0%	2.3%	5.2%	91.7%	3.0%	96.2%	3.7%
Service Maintenance							
No. Applicants	1,848	207		1,892	93	2,105	58
Application Rate	85.4%	9.6%	***	87.5%	4.3%	97.3%	2.7%
All Categories							
No. Applicants	9,617	7,383		15,716	724	17,081	458
Application Rate	54.8%	42.1%	42.6%	89.6%	4.1%	97.4%	2.6%

* Based on available data. Not all information on applicants and hires for FY 87 was entered into the Applicant Flow database at the time of this report. Some applicants did not fill out forms necessary to acquire this data or left some questions unanswered.

** L.F. - Montana civilian labor force availability of women by category. Labor force figures by category are not available for minorities and the disabled. Overall availability for minorities is 4.8% and approx. 5% for the disabled.

*** Montana labor force figures for the Para-Professional and Service/Maintenance EEO4 categories are not available separately. They are combined and the availability figure is 34.6% for women.

TABLE C

APPLICANT FLOW ANALYSIS/SELECTION RATES

FY 87 (July 1, 1986 - June 30, 1987) *

EEO Category	Men	Women	White	Minorities	Non-Disabled	Disabled
Administrators & Officials						
No. Applicants	290	47	318	13	334	13
No. Hired	16	4	20	0	18	2
Selection Rate	5.5%	8.5%	6.3%	0%	5.4%	15.4%
Professionals						
No. Applicants	3,145	1,636	4,438	154	4,832	135
No. Hired	172	148	294	12	331	6
Selection Rate	5.5%	9.0%	6.6%	7.8%	6.8%	4.4%
Technicians						
No. Applicants	1,600	1,165	2,518	134	2,739	76
No. Hired	169	147	278	24	314	11
Selection Rate	10.6%	12.6%	11.0%	17.9%	11.5%	14.5%
Protective Services						
No. Applicants	1,167	226	1,292	73	1,385	52
No. Hired	80	23	99	5	109	5
Selection Rate	6.9%	10.2%	7.7%	6.8%	7.9%	9.6%
Para Professional						
No. Applicants	784	1,042	1,731	75	1,829	27
No. Hired	111	160	259	9	268	4
Selection Rate	14.2%	15.4%	15.0%	12.0%	14.6%	14.8%
Clerical						
No. Applicants	658	3,057	3,395	179	3,729	92
No. Hired	55	304	324	13	369	5
Selection Rate	8.4%	9.9%	9.5%	7.3%	9.9%	5.4%
Skilled Craft						
No. Applicants	125	3	122	4	128	5
No. Hired	24	1	23	1	24	1
Selection Rate	19.2%	33.3%	18.9%	25%	18.7%	20.0%
Service Maintenance						
No. Applicants	1,848	207	1,892	93	2,105	58
No. Hired	125	35	144	4	164	3
Selection Rate	6.8%	16.9%	7.6%	4.3%	7.8%	5.2%
All Categories						
No. Applicants	9,617	7,383	15,716	724	17,081	458
No. Hired	752	822	1,441	68	1,597	37
Selection Rate	7.8%	11.1%	9.2%	9.4%	9.3%	8.1%

* Based on available data. Not all information on applicants and hires for FY 87 was entered into the data base at the time of this report. Some applicants did not fill out forms necessary to acquire this data or left some questions on the form unanswered.

3.1% of all state workers are minorities, compared to a 4.8% representation in Montana's civilian labor force. Minorities represented 4.1% of all applicants for state positions and 4.2% of all those hired for state positions. The selection rate for minorities (68 hired divided by 724 applicants = 9.4% selection rate) compares favorably to the selection rate for whites (1,441 hired divided by 15,716 applicants = 9.2% selection rate). Comparison of selection rates falls within the acceptable limits of the EEOC's 4/5's or 80% rule.*

A comparison of current minority representation in state government for permanent positions (3.3%) to the end of FY 85 (3.0%), indicates some gain in minority representation. As we mentioned earlier, however, this is partially a result of identifying, through the EEO Survey, minorities already employed in state government who were not previously identified.

Although the representation of minorities in the state workforce continues to trail the Montana civilian labor force, minorities are being recruited and selected at acceptable rates. This should result in a steady, albeit slow, improvement in their utilization in state agencies. In the past, increased recruitment of Native Americans, who represent a large portion of minorities in Montana, has been difficult because of their concentration on reservations distant from most state government work locations. Affirmative action plans should stress increased recruitment efforts for jobs located close to reservations. Steps should be taken to work with special recruitment sources to make Native Americans more aware of career opportunities within state government.

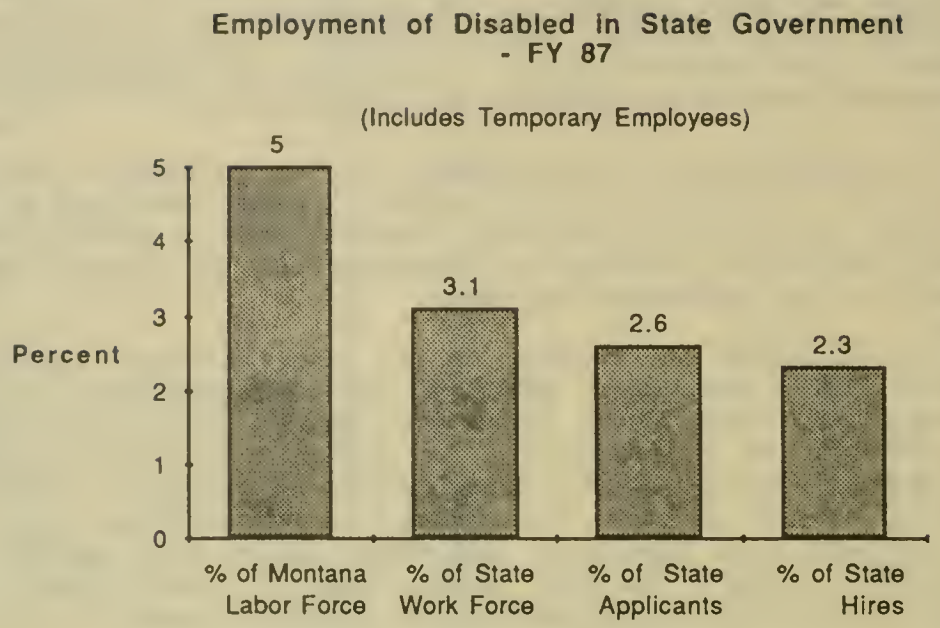
C. EMPLOYMENT OF THE DISABLED

Under the Vocational Rehabilitation Act, a disabled person is defined as having a physical or mental impairment which substantially limits a major life activity (such as walking, caring for oneself, seeing, hearing, speaking, learning or breathing); or has a record of such impairment; or is regarded as having such an impairment. This definition is used in identifying disabled persons in the state workforce.

As with minorities, the number of disabled persons in the Montana civilian labor force and in the state workforce is too low to draw statistical conclusions on the category level. Consequently, assessment of the executive branch's employment of disabled persons is discussed only on the basis of the whole workforce.

* Under this rule, if the selection rate for a protected group is less than 4/5's or 80% of the selection rate for the non-protected group, then adverse impact is a problem. In this case 9.4% selection rate for minorities is greater than the 9.2% selection rate for whites, so there is not adverse impact under this guideline.

TABLE E



The Equal Employment Opportunity Commission (EEOC) does not require reporting on utilization of disabled persons. U.S. Census figures on the availability of the disabled in the civilian labor force by census job code are not available. Instead, employers are required by the Vocational Rehabilitation Act and the Montana Human Rights Act, to treat disabled applicants on an individual basis and make reasonable accommodations whenever they are appropriate. It still is helpful, however, to analyze the utilization of disabled workers to determine the effect of state government employment practices on employment of the disabled.

Based on 1980 U.S. Census special survey data, the availability of disabled persons in Montana's civilian labor force is an estimated 5.0%. Disabled persons currently constitute 3.3% of the executive branch's permanent employees.

The disabled represented 2.6% of all applicants for state positions and 2.3% of all state hires. The selection rate for the disabled, 8.1% (37 hired divided by 558 applicants) compares to 9.3% for the non-disabled (1,597 hired divided by 17,081 applicants). The selection rate for disabled is 87% of the selection rate for non-disabled and therefore falls within the EEOC's 4/5's or 80% rule. While selection rates for disabled are only slightly lower than for non-disabled, the federal Rehabilitation Act still requires that disabled applicants are offered reasonable accommodation as needed.

A comparison of current disabled representation in state government for permanent positions (3.3%) to the end of FY 86 (2.8%), indicates some gains in disabled representation. As with minorities, this is partially the result of identifying, through the EEO survey, disabled persons already employed in state government who were not previously counted as disabled.

Recruitment seems to be the largest barrier to increased employment of the disabled in state government. As long as the disabled represent 2.6% of all applicants, it will be difficult to increase the number of employees to match their estimated 5.0% representation in the civilian labor force. Affirmative action plans by agencies should stress increased recruitment efforts to attract qualified disabled applicants.

D. EMPLOYMENT OF WOMEN

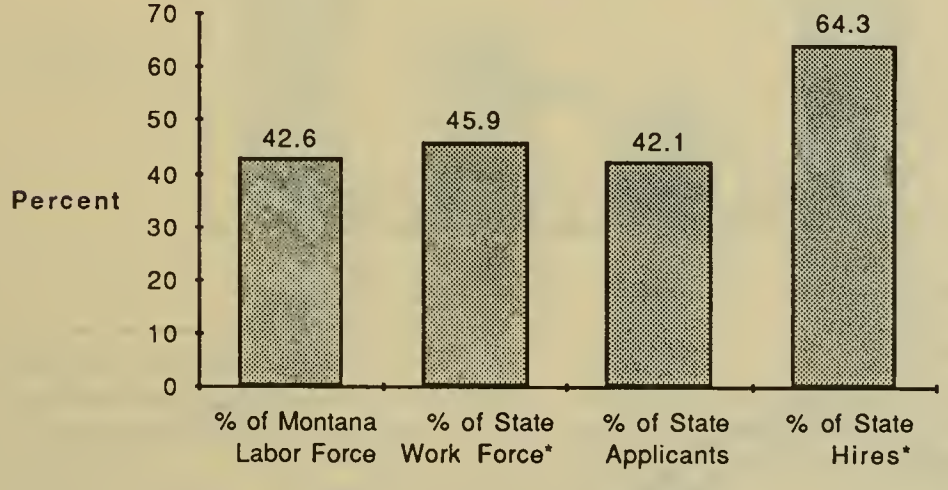
Women constitute 45% of the state workforce (includes temporary employees), and 42.6% of the Montana's civilian labor force.

42.1% of all state applicants were women. Women represented 64.3% of all state hires into permanent positions. Women had an 11.1% selection rate (822 hired divided by 7,383 applicants) as compared to a 7.8% selection rate for men (752 hired divided by 9,617 applicants).

TABLE F

Employment of Women in All Categories - FY 87

*(Includes Permanent Employees Only)



Women in both the civilian labor force and in the state workforce, are concentrated in lower-paying occupational categories such as clerical, and in the lower levels of the higher-paying occupational categories such as professionals and managers. This results in a significant wage gap between the average wage men earn and the average wage women earn in state government. Some of the wage gap is explained by women's lower representation in the higher paying job categories.*

* (The average salary of permanent, full-time women employees was 77% of the average salary of permanent, full-time men employees, resulting in a 23% wage gap as reported in the Comparable Worth Report to the 1987 Montana Legislature.)

TABLE C

Women as a Percentage of Administrators and Officials in 1985 and 1987

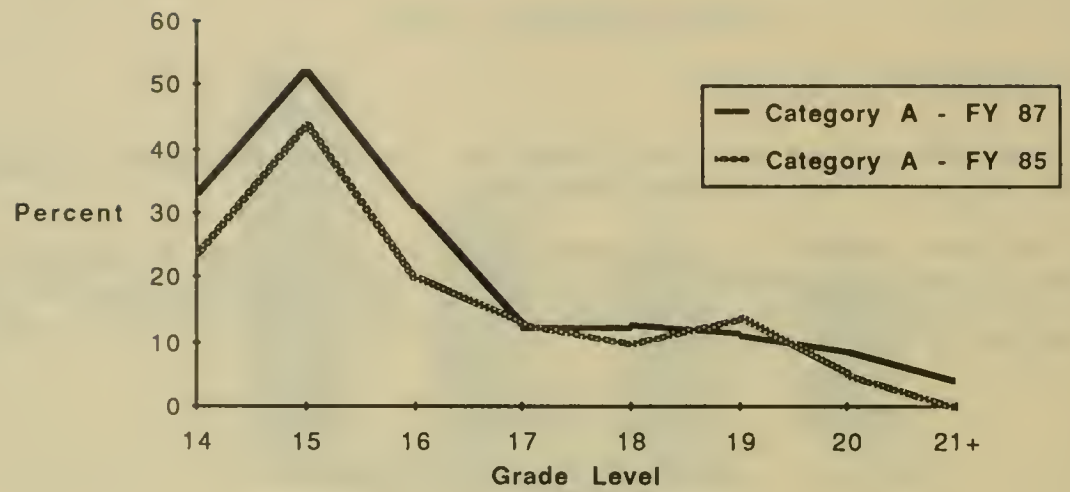
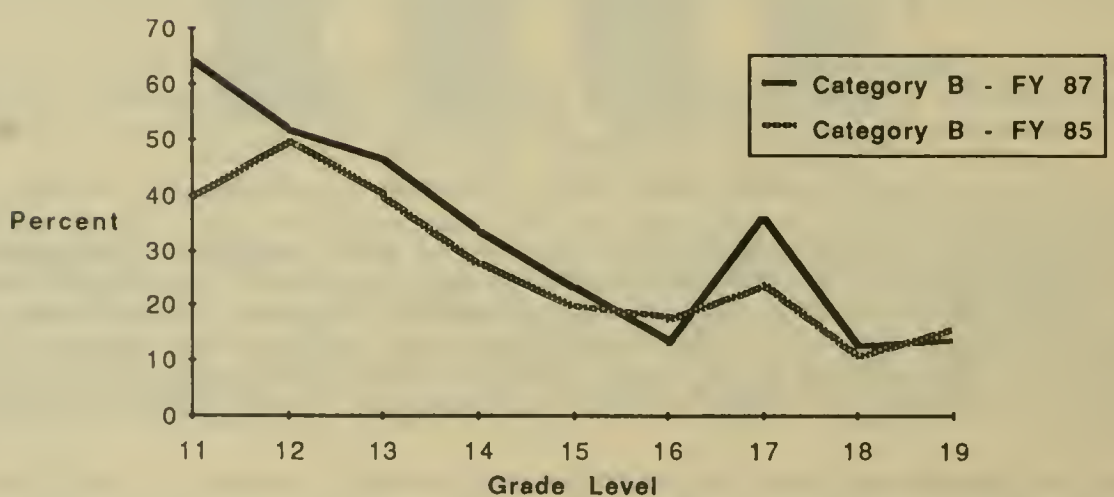


TABLE H

Women as a Percentage of Professional Employees in 1985 and 1987



EEO Category A, Administrators and Officials

Women constitute 20.7% of Category A, administrators and officials in the state workforce (includes permanent employees only) as compared to their 30.6% representation in the Montana civilian labor force.

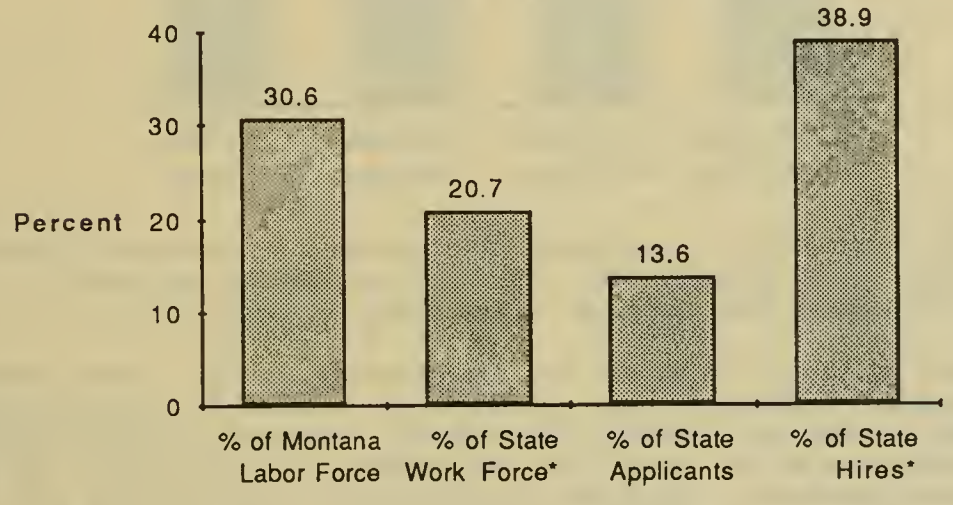
Women constituted only 13.6% of the applicants for state positions in Category A. This is significantly lower than their representation in this category in the state workforce or the Montana civilian labor force.

The selection rates for Category A are 8.5% for women (4 hired divided by 47 applicants), and 5.5% for men (16 hired divided by 290 applicants).

TABLE I

Employment of Women in Category A Administrators and Officials - FY 87

*(Includes Permanent Employees Only)



There was a notable gain made in the utilization of women in Category A in FY 87. Representation of women in this category increased from 17.1% in FY 86 to 20.7% in FY 87. Part of this increase was due to correction in EEO category assignments; however, significant improvement was made over previous years in the rate women were hired and promoted into jobs in category A. Women represented 30.4% of all promotions and 38.9% of all agency hires into this category (see Appendix D, Table 1). Improvement in representation may have been greater had not women also terminated from category A at an increased rate (39.8%).

Even with the gains made through category assignment corrections and through promotions, underutilization of women in this category remains an area of concern. If underutilization of women in Category A is to be solved in the near future, analysis shows that the number of qualified women applying in this category needs to be dramatically increased. Data also shows that women in this category left state government at a level higher (25.9% of those leaving) than their representation in this Category (21.8% including temporaries, 20.7%

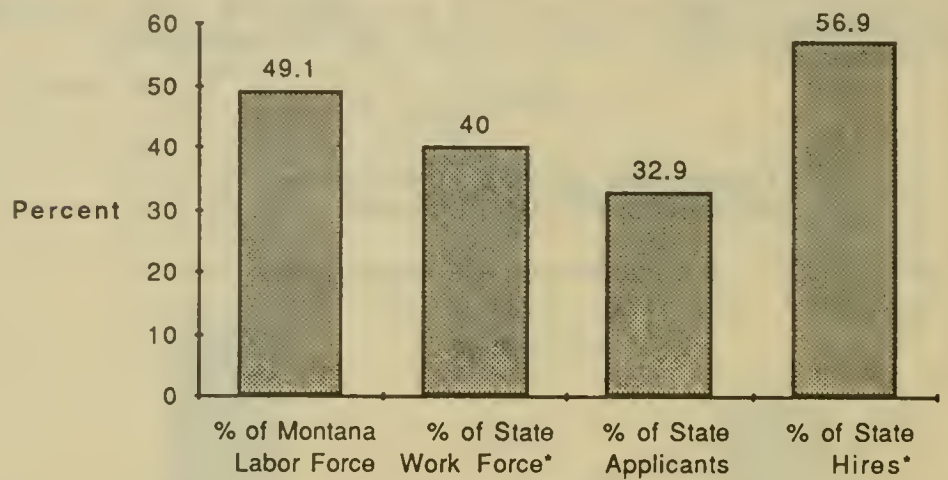
of permanent employees). (See Appendix D, Table 2.) Therefore, recruitment and retention of women should be targeted in state affirmative action plans.*

EEO Category B, Professionals

TABLE J

Employment of Women in Category B Professionals - FY 87

*(Includes Permanent Employees Only)



In FY 87 women were 32.9% of applicants for positions in Category B and were 56.9% of all hires. The selection rate for women is 9.0% as compared to a 5.5% selection rate for men in this category. (See Table C, page 8.)

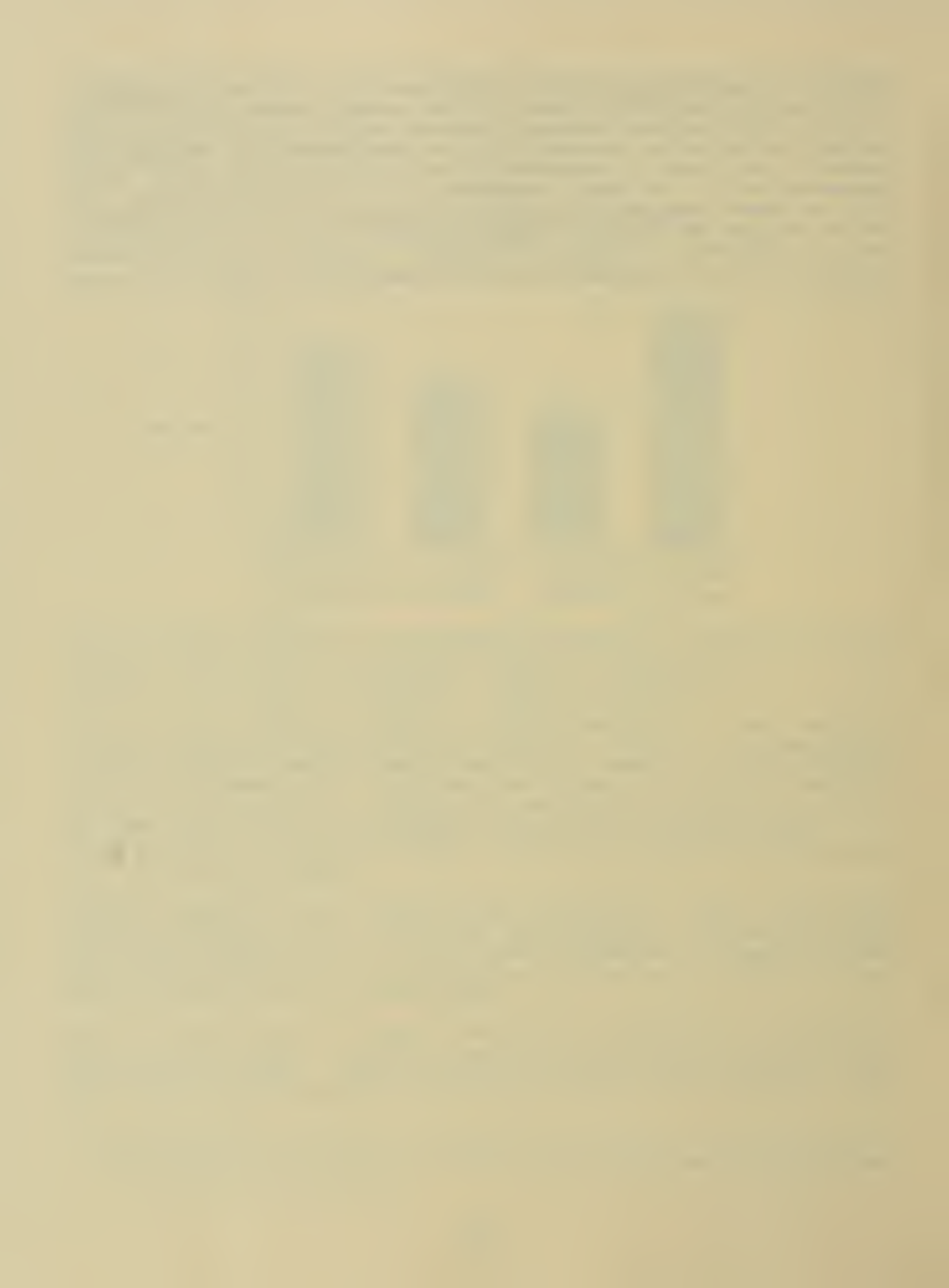
Women comprise 40.0% of Category B, professionals in the state workforce (includes permanent employees only) as compared to their 49.1% representation in this category in Montana's civilian labor force. However, a large proportion of women professionals in the labor force are teachers, an occupation not prevalent in the state workforce. Analysis of professional occupations in the state's workforce indicates that an availability closer to 40% is more appropriate. Using the 40% as the availability figure, the state as a whole has reached parity in the professional category.

Although parity has been reached in this category as a whole, there remain areas of significant concern. There are still a number of occupational groups in the state workforce that have fewer women represented as compared to their representation in the labor force. Individual agencies need to monitor and take steps to reach parity in these occupations.

Also, as shown in Table H, page 12, women are concentrated in the lower pay grades in this category. The 49.7% rate of grade promotions for women within this category, however, indicates that this problem will be resolved if this trend in promotions continues.

* More detailed explanation of Tables on hires, promotions and terminations can be found in Appendix D.

There was a significant gain made in the representation of women in Category B in FY 87. Representation of women in this category increased from 37.0% in FY 86 to 40.0% (includes permanent employees only) in FY 87. Part of this increase was due to the correction in EEO category assignments. However, the majority of the increase is attributable to the promotion and hire rates. Women represented 55.2% of all agency promotions into the Professional category, and 56.9% of agency hires into Category B. These high levels of both promotions into the category and hires are probably the major causes of the increase in the level of representation of women in Category B. Improvement in representation may have been greater had not women also terminated from category B at a rate of 49.7%.



CHAPTER III

SPECIAL ACTIVITIES AND RECOMMENDATIONS FOR FY 88

A. GENERAL

EEO/AA Briefings for Managers

The effectiveness of agency EEO/AA programs and plans depends on the understanding and cooperation of agency managers, since they control hiring, terminations, promotions and training. Special EEO/AA briefings given to some groups of agency managers in FY 87 resulted in increased understanding of the rationale and principles of affirmative action, and in increased confidence in the AA planning process. Consequently, the EEO Section will continue to offer and promote special AA briefing sessions for managers in FY 88, and recommends that all managers attend.

P/P/P Record Keeping and Reports

Increasing the accuracy of EEO data on applicants and employees will continue as a priority in FY 88. Completion of the EEO Input and Emergency Information Form for all new state employees will be monitored. More effective use of the Applicant Flow System and timeliness of data entry by agencies will also be encouraged.

Special attention will be given to the collection of applicant information for occupations with identified recruitment or selection problems. Efforts will continue in the enhancement of P/P/P systems used for EEO record keeping and reports. Emphasis will be placed on increasing the effectiveness and usefulness of reporting systems, and making the systems and reports easier for agency personnel to understand and use.

Recruitment Sources

Improving the quality of recruitment source listings for minorities, women and the disabled will receive special attention in FY 88. Agencies have been using special recruitment sources listed in the State's EEO/AA Guidelines in trying to correct recruitment problems. It has been found, however, that some of these sources either are not producing any applicants or not producing the number of applicants expected. Sources now listed will be examined to eliminate those which are ineffective. Communication and coordination of recruitment efforts will be increased with those sources which have proven effective. New sources will also be sought.

Special Assistance

While overall statistics on EEO performance for the state are generally good, there remain areas of significant underutilization which need special attention, if any progress is to be expected. The EEO Section will contact agency management in these areas and offer special assistance in examining causes of underutilization and in recommending affirmative action solutions.

B. EMPLOYMENT OF MINORITIES

One barrier to increasing the level of minority representation in state employment is the geographical distance between the population concentrations of minorities and concentrations of state jobs. Native Americans who reside on their respective reservations are not within commuting distance of most state positions. The relevant recruitment area for many state positions may not include reservations. For example, advertising for state positions in Helena might be limited to Lewis and Clark County.

In FY 88, the EEO Section will recommend that agencies identify state work units which are close to population concentrations of minorities, and determine if minorities are utilized in those work units in relation to their local availability. Positions in such work units which are identified as underutilized for minorities could then be examined for recruitment and selection practices which may have a disparate impact on minorities. Special assistance in this process will be available from the EEO Section.

The Section will also recommend increased recruitment from special sources. Better communication needs to be established with placement staff in Native American high schools, community colleges, and Native American groups in state colleges and universities. This can make Native Americans more aware of career possibilities in state government and of specific position vacancies as they occur.

C. EMPLOYMENT OF THE DISABLED

The present application rate is the major barrier to increasing employment of the disabled by the state. Simply stated, it is difficult to increase the present disabled representation level of 3.1% when the disabled represent only 2.6% of all applicants for state positions. Emphasis will be placed on identifying special recruitment sources for disabled persons.

While selection has not been identified as a significant problem, special training will be offered to agency managers in FY 88 on reasonable accommodation for the disabled, not only for on-the-job accommodations, but for those accommodations which may be needed in the selection process.

D. EMPLOYMENT OF WOMEN

The Report to the Governor for FY 86 identified significant underutilization of women in EEO Category A, Administrators and Officials, and recommended the development of a special management training program for women as one means of correction. A program proposal has been developed and will be distributed to agency directors for review and comment. If received favorably, the program will aim for implementation before the end of FY 88.

The rate women apply for administrative and professional positions continues to be quite low as compared to men, even though they are relatively successful at being selected once they apply. Steps need to be taken to increase the rate women apply for these jobs.

It is recommended that special attention also be given to higher paying job classes in state government which traditionally have not employed women. College enrollment and graduation statistics show that women are receiving education in areas which they have not participated in the past, such as engineering and forestry. There are also non-professional occupational groups requiring little or no prior training at the entry level for which most women would qualify, but have not traditionally sought because they were not considered "women's work." Agencies should be aware of the availability of qualified women in these non-traditional occupations, and ensure that they receive equal opportunities in the recruitment and selection process.

CHAPTER IV

EQUAL EMPLOYMENT OPPORTUNITY SECTION ACTIVITIES

The Equal Employment Opportunity (EEO) Section's major program responsibilities are:

- To develop and maintain the state's Equal Employment and Affirmative Action Program, which includes review and approval of all state agency EEO/AA Plans.

- To provide technical assistance to agencies on EEO/AA related matters.

- To maintain and enhance EEO information systems on the state's computerized Personnel/Position Control/Payroll (P/P/P) system and to provide periodic computerized reports to agencies on their EEO performance.

- To provide administrative support to the Governor's Committee on Employment of the Disabled.

A. EEO/AA PROGRAM DEVELOPMENT AND MAINTENANCE

FY 87 was the middle of the two-year affirmative action plan cycle, so no major agency AA plan development was scheduled. The Section assisted agencies in achieving goals identified in the existing plans. Substantial assistance was provided to the Highway Patrol, Department of Justice, in updating recruitment and selection procedures for the cadet program; and to the Department of Highways in meeting special Federal requirements for AA planning and reporting procedures.

In response to feedback from agencies handling complaints of sexual harassment, a major rewrite of the state's sexual harassment prevention policy and policy statement was undertaken. The focus of the rewrite was to provide clearer guidelines and confidentiality in the complaint reporting and investigation procedures. Work on this project was ongoing at the end of the fiscal year. Sexual harassment training for managers and employees was also revised to reflect changes in the policy.

B. TECHNICAL ASSISTANCE

In FY 87, the EEO Section emphasized providing a better understanding of the Equal Employment Opportunity/Affirmative Action (EEO/AA) Program to state agencies. The following activities were conducted in this area:

- Twelve workshops were conducted with Job Service managers throughout the state on EEO/recruitment and selection. Positive techniques were emphasized to improve employment practices. Attending were Job Service staff, and managers from state agencies, city/county government, school districts, and private sector employers.

- AA briefings were developed to explain the EEO/AA program to state agency managers. These briefings were conducted with five state agencies participating.

- The sixth annual EEO Conference was conducted in September, 1986. The conference provided up-to-date EEO/personnel management information. More than 80 people attended. Participants included personnel/EEO officers and managers from state, county and city government, hospitals, human resource organizations, colleges and universities, women and minorities organizations, private sector employers and labor unions.

Technical Assistance Calls

The EEO Section received more than 1,000 telephone calls requesting information and assistance on EEO-related matters. Much of this increased activity was a result of presentations given to groups from the public and private sector. The nature of assistance covered:

- EEO/AA
- Discrimination
- Recruitment/Selection
- Outreach Programs
- Training
- P/P/P System
- Disability and Accommodation
- Governor's Committee on the Employment of the Disabled

The calls have been from:

- State Agencies
- School Districts
- Disabled, minority, and women's organizations
- City/County government including law enforcement
- Applicants
- Private sector employers

C. MAINTENANCE AND ENHANCEMENT OF EEO-P/P/P SYSTEMS

In FY 87, the EEO Section emphasized improving and streamlining computer reports and analyses, and updating databases used by state agencies and the EEO Section to analyze EEO performance. The following activities and projects were undertaken in this area:

An EEO Input Form was developed to obtain more reliable, accurate race, sex and disability data on state employees. Since the workforce analysis (women and minority employees utilized) forms the foundation for identifying underutilization of women and minorities, this new addition should prove invaluable to the EEO/AA program. Using the new form, a statewide survey of employees was conducted in August, 1987 to update EEO information. The form will be given to each new employee hired to keep EEO data current. A "EEO Data Verification Guideline" was developed for EEO officers and managers to verify race, sex, and disability data for accuracy and completeness. This information was entered into the P/P/P System and used in the preparation of this report.

The assignment of state job classes to EEO categories was the subject of a major review. Some existing assignments did not accurately reflect EEO category definitions. Procedures were developed in conjunction with the Classification Bureau to ensure that future category assignments are appropriate.

Computer reports on applicants and hires were developed for each agency and for the state as a whole. These one page reports analyze the number of applicants and hires by sex, race, and disability status and by veterans' and handicapped employment preference status.

Methods for assigning EEO function by agency and the overall format of the EEO-4 Report [federal] were changed to comply with an Equal Employment Opportunity Commission (EEOC) request.

The state application was revised to clarify instructions and to streamline data to be entered in the P/P/P system.

Analyses used in the Annual Report to the Governor were revised. Two new reports were developed.

D. GOVERNOR'S COMMITTEE ON EMPLOYMENT OF THE DISABLED

Executive Order No. 30-81 creating the Governor's Committee on Employment of the Disabled (GCED) charges the Department of Administration with providing administrative support to the committee. An EEO Section staff person serves as executive secretary to the committee. The executive secretary carries out any directives the committee issues at quarterly meetings and conducts other committee functions on an as-needed basis.

Awards Programs

The GCED sponsors two awards programs to encourage and promote employment of the disabled. They are the Key Employer Program and the Governor's Committee Awards. These awards programs are coordinated by the executive secretary.

The Key Employer Program is a joint effort by the Department of Labor & Industry's Job Service Division and the Governor's Committee. Job Service representatives call on employers to promote employment of the disabled. Employers who commit to hiring disabled persons in the future receive a certificate from the GCED, signed by the chairman and the governor. The certificates are intended to increase employers' awareness of the employment needs of the disabled and to motivate them to seriously consider disabled applicants for future job openings. More than 200 Key Employer certificates have been presented to employers during FY 87.

Governor's Committee Awards recognize exemplary efforts of employers, disabled persons, and organizations serving the employment needs of the disabled. The awards are intended to increase public awareness of the employment potential of disabled persons. In FY 87 ceremonies were held in Missoula, Eureka, Great Falls, and Glasgow honoring more than twenty persons. There was media coverage of every awards ceremony promoting these accomplishments.

Liaison with the President's Committee

A representative of the Governor's Committee attended the National Conference on Employment of People with Disabilities and the National Conference of States' Committees on the Handicapped, held in Denver in April. These conferences allowed the exchange of information and ideas with representatives of the President's Committee on Employment of the Handicapped (PCEH) and with representatives of other states' committees.

Forum on Disabled Employment Issues

A Forum on Disabled Employment Issues was held in conjunction with the State Personnel Division's EEO Conference this fall. Participants had an opportunity to identify problem areas, to target them for specific action, and to discuss issues affecting employment of the disabled. The forum was co-sponsored by the Human Resources Development Institute of the AFL-CIO. Representatives of employers, service providers, and disabled advocacy groups were asked to present their views in a general session and in panel workshops. More than 100 people participated in the forum.

Quarterly Meetings

Four committee meetings were held in FY 87. The EEO Section scheduled all meetings and prepared materials including special reports for each meeting. Minutes on all meetings were prepared and sent to members and organizations having an interest in committee affairs.

Teleconference

A special teleconference on "Employment of the Disabled," originating from the University of Oklahoma, was arranged in conjunction with the Office of Public Instruction. Committee members and the SRS's Developmental Disabilities Planning and Advisory Council, Visual Services Advisory Council and Rehabilitative Advisory Council members attended.

E. OTHER ACTIVITIES

In addition to assistance provided to state agencies, Section staff also provided assistance to organizations outside of state government as follows:

- The state EEO Coordinator was chairperson of the Public Relations Committee of the Expanding Your Horizons (EYH) program sponsored by the Office of the Superintendent of Public Instruction. As a speaker at the EYH Conference, the Coordinator presented information on career choices to over 1,700 school girls.

- EEO/recruitment and selection information was presented in a speech at a conference of the Montana Association of Counties. Consultation and advice was provided to more than 100 county commissioners at the two-day conference.

- A number of EEO/AA briefings were given at meetings of organizations for women, minorities, and the disabled, and at a number of conferences.

- Appearances were made on the "Focus" television program, on four TV news programs, and on a Helena radio program to present information on EEO/AA and wrongful discharge.

- A program was established with Job Service to review employment applications forms on request of private employers for suspect questions in areas of discrimation. More than 20 application forms were reviewed.

CHAPTER V

AGENCY ACCOMPLISHMENTS

State agencies, using the P/P/P system's reports and analyses, have been monitoring the problem areas identified in their Affirmative Action Plans and recommending ways to correct the deficiencies. It is not possible to list activities of all state agencies, but the following are some examples of affirmative actions step taken by state agencies during FY 87.

The Department of Administration has conducted numerous outreach recruitment programs to various target groups such as Displaced Homemakers, Native American junior college students, and Job Service Program Office clients. The programs have provided information on procedures for applying for state jobs.

The department has worked closely with the Helena Job Service Program Office/CEP Center and the Helena Industries placement staff to provide training and/or placement opportunities to clients. The department has provided Work Experience Opportunities for 14 individuals in the past year. Eight of those were subsequently hired by the department in permanent jobs and the others also have obtained employment.

The department has conducted EEO/Sexual Harassment Training bi-monthly and Windmills Training for supervisors and employees on attitudes towards employees with disabilities three times this year.

The department was recognized by the Governor's Committee on Employment of the Disabled for providing employment opportunities for five disabled persons.

The Department of State Lands is striving to encourage women, minorities and the disabled to apply for vacant positions through a broad recruitment effort. The department hired 15 women seasonal forest workers, and several disabled and minority forest workers for the 1987 field season. Employees in seasonal positions have the opportunity to advance through a career ladder and are considered for technical and professional positions. The forester occupation has long been traditionally male. The department recently hired two women into professional forester positions, which brings the total to three women in this job group.

The Department of Agriculture is continuing to make a concerted effort to meet affirmative action goals. The director has established the following guidelines to assure these goals are met:

- Employees attend Sexual Harassment Prevention Workshops which are offered on an ongoing basis.

- The department's Sexual Harassment Policy is provided to all new employees during the orientation process.

- The department's EEO Officer or representative is involved in the interview process to ensure fair employment selection.

- Management attends EEO/AA, recruitment and selection workshops to enhance fair employment techniques.

The Department of Revenue has conducted workshops on recruitment and selection, affirmative action and employment seeking skills with 46 employees trained. The department has continued to actively participate in the JPTA and workfare programs with the Job Service Program Office.

Campus outreach programs were conducted for Eastern Montana College, University of Montana, and Carroll College Students. One college intern was hired to work in the Child Support program.

The department was recognized by the Governor's Committee on Employment of the Disabled for providing employment opportunities for six disabled persons.

The Montana Department of Highways has provided seven internal EEO Awareness workshops and nine additional workshops are scheduled. For the first time, training designed specifically for supervisors has been developed and five workshops have been completed with eight more scheduled.

The Civil Rights Bureau developed a new EEO Compliance Manual. This manual contains technical assistance and regulatory information for all the programs administrated by the Bureau (EEO Contract Compliance, Labor Compliance, Disadvantaged Business Enterprise Program, Title VI, and the Internal EEO Program). These manuals have been distributed internally, as well as to all highway contractors.

CHAPTER VI

U.S. SUPREME COURT RULINGS

A. AFFIRMATIVE ACTION

Last year's "Report to the Governor on EEO/AA" noted that decisions by the U.S. Supreme Court in "Sheet Metal Workers v. Equal Employment Opportunity Commission," and "Fire Fighters v. City of Cleveland" were significant in reaffirming the legality of affirmative action as a remedy for past discrimination. Since that report, the court has gone further in strengthening and even extending the scope of affirmative action plans and programs.

In "U.S. v. Paradise" the court upheld an affirmative action order that required the Alabama state police to promote one black officer for every white officer promoted, rejecting the U.S. Justice Department's argument that the race-conscious relief violated equal protection requirements. The Court concluded that the promotion order was justified by a compelling governmental interest in eradication of the police department's pervasive, systematic, and obstinate discriminatory exclusion of blacks.

Since Montana state government is not presently subject to any court ordered affirmative action remedy, this decision does not have any immediate effect. It does reaffirm, however, the court's commitment to the imposition of quotas for hiring and promotion when an employer has refused to adopt a voluntary affirmative action plan in correcting obvious areas of discrimination.

In "Johnson v. Transportation Agency, Santa Clara County," the court found that preferential treatment of women or minorities may be allowed under an affirmative action plan that uses a moderate, flexible, case-by-case approach to correcting underrepresentation in the workforce. The case is significant because the court found that in order to justify an affirmative action plan, an employer was not required to show that it had participated in discriminatory employment practices in the past, but needed only to point to conspicuous imbalances in traditionally segregated job categories.

The decisions affecting voluntary affirmative action programs also were positive because the court found:

- Employers may take voluntary affirmative action without admitting discrimination.
- Voluntary plans and efforts to remedy past practices may benefit more than individual victims.
- Voluntary affirmative action may exceed that which could be ordered by a court in a decree.
- Voluntary affirmative action plans may take race and gender into account in employment decisions.
- Employers may set goals and establish timetables.

B. SEX DISCRIMINATION

In "California Federal Savings and Loan Assn. v. Guerra," the Court found that the California law requiring employers to provide pregnant employees with up to four months' disability leave and reinstatement to an equivalent job, did not violate Title VII. The court rejected the argument that the California law discriminated on the basis of pregnancy by compelling employers to treat pregnant employees better than other temporarily disabled employees. It stated that the law was an extension, rather than a limitation of Title VII principles and objectives, and furthered the Title VII goal of promoting equal employment opportunity. (Montana's "Miller-Wohl"* case was remanded to the Montana Supreme Court to be reviewed based on this decision.)

C. DISABLED DISCRIMINATION

In "School Board of Nassau County, Florida v. Arline," the court found that a record of impairment by a contagious disease amounts to a physical handicap covered by the Rehabilitation Act of 1973. Thus, an employer may not discriminate in employment against persons on the basis of a disease's contagious effects on others as distinguished from its physical effects on the patient. This decision is significant because it has been interpreted in other cases before the courts to extend protection against discrimination to AIDS sufferers. In considering the employment of a person with a contagious disease, the court found that courts must determine whether any "reasonable accommodation" can be made by the employer in the light of reasonable medical judgments of public health officials.

Overall, decisions by the U.S. Supreme Court over this last year have made it clear that the court is supporting a broad, rather than narrow, interpretation of legislation which establishes protection for people from employment discrimination.

* Montana's "Miller-Whol" 41 St.Rpt 2445 (1984), case which had been appealed to the U.S. Supreme Court by Miller-Wohl was remanded to the Montana Supreme Court because of its similarity to "Guerra." The Montana Supreme Court decided the case in favor of Tamara L. Buley whose employment had been terminated by the Miller-Wohl company because of pregnancy. The Court had come to the same conculsion at the U.S. Supreme Court did later in "Guerra," that is, that the state's statute guaranteeing maternity leave and job reinstatement to pregnant women (in this case, the Montana Maternity Leave Act) did not violate Title VIII.

CHAPTER VII

RECENT MONTANA HUMAN RIGHTS COMMISSION DECISIONS

A. MONTANA HUMAN RIGHTS COMMISSION

During FY 87, the Montana Human Rights Commission's staff attorney and compliance supervisor fielded between 50 and 75 calls per month from employers needing assistance in order to comply with employment discrimination laws. The most frequent queries by employers involved compliance with maternity leave laws, what questions should and should not be asked of applicants, how to handle complaints of sexual harassment, general discipline handling, employee benefit plans, and AIDS. Commission members and staff also spoke to business and community groups and workshops on an average of once per month.

B. LEGISLATIVE CHANGES AFFECTING COMMISSION

Bill 393 (Chapter 511, 1987 Laws of Montana) was enacted at the request of the Montana Human Rights Commission. It was an effort to solve the administrative problems created by the Montana Supreme Court's decision in University of Montana Foundation v. Human Rights Commission, 43 St.Rep. 1814 (1986). The bill amended the procedural provisions of the Human Rights Act and Governmental Code of Fair Practices. It permits removal of a case to district court upon request of either party if more than twelve months have elapsed since a complaint was filed and the commission has not held a contested case hearing. The commission staff can deny a request for removal if:

1. party requesting removal has failed to comply with the terms of a subpoena issued in the course of the investigation;
2. the party has waived the right to request removal, or
3. more than 30 days have elapsed since notice of certification for hearing, unless the commission fails to schedule a hearing to be held within 90 days of issuing the notice.

The amended statute allows commission staff to issue right-to-sue letters in any case in which the staff has made a no cause finding, in which the complainant fails to cooperate in the investigation, or in which the staff determines that the commission lacks jurisdiction.

The legislature also provided that the procedures of the Human Rights Act and Governmental Code of Fair Practices provide the exclusive remedy for complaints of discrimination under Montana law. This provision was enacted in response to the decision of the Montana Supreme Court in Drinkwalter v. Shipton Supply Co., 44 St.Rep. 318 (1987).

Senate Bill 152 (Chapter 415, 1987 Laws of Montana) establishes an extended period for filing complaints with the commission, if the complainant has attempted to resolve the dispute through any grievance procedure established by a collective bargaining agreement, contract, or written rule or policy. The complainant has 180 days to file with the commission unless an internal grievance procedure is used. If the internal procedure is used, the time to file with the commission is extended for the period of time it takes to complete the grievance procedure up to a maximum of 120 days.

C. CASELOAD STATISTICS FOR COMMISSION

In FY 85, a total of 319 cases were filed with the Human Rights Commission. Of those, 238 were filed against private employers and 81 against public employers. In FY 86, a total of 283 cases were filed. Of those, 203 were against private employers and 80 against public employers. In FY 87 a total of 277 cases were filed. Of those, 206 were against private employers and 71 against public employers. The complaints were filed in the following areas and on the following basis:

AREA	Public			Private		
	FY 85	FY 86	FY 87	FY 85	FY 86	FY 87
Employment	69	72	60	205	180	166
Training/Education	11	8	4	2	1	0
Housing	0	0	0	16	7	34
Public Accommodations	4	0	0	10	4	10
Financing	0	0		3	1	4
Government Services	4	7	7	0	0	0
Retaliation	10	14	12	11	9	9
Insurance	0	0	0	0	3	1
BASIS						
Creed/Religion	4	4	2	8	3	10
Age	16	28	17	57	70	62
Sex	43	30	33	109	97	84
Race/Nat.Orig./Color	10	18	18	48	26	43
Handicap	13	17	13	30	24	43
Marital Status	8	13	12	22	23	20
Political Belief	4	5	4	0	0	0

D. HUMAN RIGHTS COMMISSION DECISIONS (July 1, 1986 to June 1987)

Case No. HpE80-1235, Amstutz v. Mountain Bell. Decided August 15, 1986, issued September 23, 1986. On October 22, 1984, the charging party filed a petition for judicial review alleging discrimination on the basis of physical hardship. On December 10, 1985 the state district court, Honorable Henry Loble presiding, reversed and remanded the case to the commission. The court approved the decision of the commission except in one respect, which is why the case was reversed and returned to the Commission. The court found that Mountain Bell discriminated against the charging party by failing to process her sickness disability benefit claim. The commission had found no discrimination in Mountain Bell's actions. The commission was ordered to assess damages for the respondent's failure to process the charging party's sickness disability benefits claim. The commission awarded the charging party benefits she would have received under the disability plan, back pay, and counseling fees, less interim earnings. The commission did not award the charging party damages for emotional distress. The commission further found that the charging party had sufficiently mitigated her damages. (See Amstutz v. Mountain Bell, Supra HpE80-1235.)

Case No. SE84-2345, Foss v. J.B. Junk. Decided November 22, 1986, issued January 30, 1986. Complaint alleged employment discrimination on the basis of sex in that the respondent's sexual harassment forced the charging party to resign her employment. Default was entered in the case on February 3, 1986. The Commission affirmed the hearing examiner's proposed order of default in that the respondent, by his own conciliation, admitted under oath that he had received the contested case documents and had actual knowledge of them, knew of the requirement to file an answer and failed to show good cause to set aside the default judgment. The hearing examiner concluded that given the testimony and demeanor of the parties, even if the respondent had a valid defense, it would have been defeated by the evidence. The commission overruled the hearing examiner's calculation of emotional distress damages of $2,500.00 and reduced those damages to $1,500.00.

Case No. SE85-2601, Lindell v. Brockel's Candy Kitchen. Decided September 19, 1986, issued October 24, 1986. Complaint alleged sex and maternity discrimination in termination of employment. The commission affirmed the hearing examiner's proposed order. The hearing examiner found that respondent's justification for terminating the employment of charging party failed in light of all the testimony presented by the parties and their witnesses. Respondent's decision to terminate charging party's employment was made within hours after the charging party reported her pregnancy. This and other factors led the hearing examiner to conclude that it was more likely than not that the charging party was terminated as an employee due to her sex and pregnancy. Respondent was ordered to pay charging party $45.23 in lost wages plus accrued interest.

Case No. HpE82-1828, Rathsack v. R.R. Grover Incorporated. Decided December 22, 1986, issued December 24, 1986. Complaint alleged physical handicap discrimination in hiring. The commission affirmed the hearing examiner's proposed order in favor of respondent. Charging party's lack of productivity was a justifiable reason for failing to hire charging party for a later project. The justifications offered by the respondent were not rebutted by the charging party or shown to be pretextual. The charging party's complaint was dismissed.

Case No. SE85-2757, Sandra Four Nier v. Quad State Construction and Equipment Company. Decided February 23, 1987, issued March 3, 1987. Complaint alleged sex discrimination for failure to hire a female for work on a construction project. The commission affirmed the hearing examiner's proposed order finding the respondent had engaged in discriminatory conduct by failing to hire a qualified female applicant because of her sex. The construction company was ordered to refrain from engaging in the discriminatory conduct by failing or refusing to hire women for its corporate activities. Other affirmative relief was also ordered.

In the matter of the application of the Montana Department of Institutions (now Department of Family Services) for a Declaratory Ruling. Decided June 29, 1987. Certified to the Secretary of State July 20, 1987. The department petitioned the commission to declare an exception to the provisions of the Montana Human Rights Act and the Governmental Code of Fair Practices in the area of sex discrimination in employment. The exception was requested for the purpose of recruiting, appointing, assigning, and hiring only females as cottage life attendants for shifts including coverage of a cottage by only one individual

in its juvenile correctional institution, Mountain View School. The commission upheld the determination of the hearing examiner that there were sufficient grounds to find a bona fide occupational qualification exception to hiring females only in the limited circumstances outlined above.

STATE OF MONTANA
Office of the Governor
EXECUTIVE ORDER NO. 24-81

Executive Order Directing the Department of Administration to Implement and Maintain an Equal Employment Opportunity Program in State Government

WHEREAS, equal opportunity in state government is a goal to which I am committed, and

WHEREAS, discriminating barriers to employment in state government must be eliminated, and

WHEREAS, an effective state equal employment opportunity program must be implemented and maintained.

NOW, WHEREOF, I, GEORGE TURMAN, by the authority vested in me as Governor of the State of Montana, pursuant to Article VI, Section 4, of the Constitution of the State of Montana and Sections 2-7-103, 2-15-103, and 2-15-201, Montana Codes Annotated, do hereby order the Department of Administration as follows:

1. Implement and maintain an Equal Employment Opportunity Program for all state government employees. Specifically the Department shall provide such regulations, standards, and other guidelines as may be necessary to implement and maintain an effective equal employment opportunity program throughout state government. The program objectives shall be to eliminate discrimination in personnel salaries and procedures, job structuring and classification, hiring, firing, promoting and training.
2. Monitor the Equal Employment Opportunity Program and submit a status report to me within 90 days of the end of each year.

This order is effective immediately.

GIVEN under my hand and the GREAT SEAL of the State of Montana this 13TH day of October in the year of our Lord One Thousand Nine Hundred Eight-One.

George Turman

GEORGE TURMAN, Acting Governor

ATTEST:

Jim Waltermire

JIM WALTERMIRE, Secretary of State

APPENDIX B

DESCRIPTION OF EEO-4 CATEGORIES

A. Officials and Administrators: Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy directors, controllers, examiners, wardens, superintendents, sheriffs, police and fire chiefs and inspectors and kindred workers.

B. Professionals: Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes: Personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dieticians, lawyers, system analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, police and fire captains and lieutenants and kindred workers.

C. Technicians: Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers and operators, drafters, surveyors, licensed practical nurses, photographers, radio operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences), assessors, inspectors, police and fire sergeants and kindred workers.

D. Protective Service Workers: Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: police patrol officers, firefighters, guards, deputy sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers and kindred workers.

E. Paraprofessionals: Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience normally required for professional or technical status. Such positions may fall with an identified pattern of staff development and promotion under a "New Careers" concept. Includes: library assistants, research assistants, medical aids, child support workers, policy auxiliary, welfare service aids, recreation assistants, homemakers aides, home health aides, and kindred workers.

F. Office and Clerical: Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distribution, payroll clerks and kindred workers.

G. Skilled Craft Workers: Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters and kindred workers.

H. Service-Maintenance: Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial employees, gardeners and groundkeepers, refuse collectors, construction laborers.

STATE OF MONTANA

PAYROLL PERSONNEL POSITION CONTROL

EEO INPUT AND EMERGENCY INFORMATION FORM

E E O INFORMATION (This part is required)

This information should be completed by the employee, subject to verification by the EEO Officer. The information is confidential and used only for statistical summary to evaluate fair employment practices.

Agency Name | **Agency Number**

Employee Name Last First Middle | **Soc.Security Number**

Home Phone Number	Date of Birth	Sex	EEO Race/Ethnicity Codes
502 ( ) — area	MM DD YY	M F	W White ☐ I American Indian or Alaskan Native ☐ S Hispanic ☐ A Asian or Pacific Islander ☐ B Black ☐

502 Are you a disabled person? yes ☐ no ☐ | Are you a veteran? yes ☐ no ☐

Veteran and Disabled Veteran Status Codes

If you answered "yes" to the veteran question, check ONE box that best describes your veteran status.

1. Disabled Veteran

502
- M ☐ Disabled Vietnam Veteran (served between 8•5•64 – 5•7•75)
- N ☐ Disabled Veteran of Other Campaign or War
- O ☐ Other Disabled Veteran

2. Veteran — Not Disabled

- P ☐ Vietnam Veteran (served between 8•5•64 – 5•7•75)
- Q ☐ Veteran of Other Campaign or War
- R ☐ Other Veteran

EEO Officer or Designee Signature (verification)

FOR DATA PROCESSING USE ONLY

EMERGENCY INFORMATION

530 **Your Office Phone No.** — | *Please indicate the person to be contacted in the event you are involved in an emergency and unable to contact the person yourself.*

503 **Emergency Notification (NAME)** | **Relationship to Employee** 1 ☐ Spouse 2 ☐ Child 3 ☐ Parent 4 ☐ Other Family 5 ☐ Other

Emergency Contact

503 Phone ( ) — area | 504 Address | City | State | Zip

504 **Comments** (Use a maximum of 30 letters and spaces to indicate special considerations for contacting the emergency notification person.) For example: "M-Th. F & after 5 at home phone"

Employee Signature | *Date*

Please see instructions on back.

Dear State Employee,

Executive Order 24-81 of the State of Montana directs the Department of Administration to "Implement and maintain an Equal Employment Opportunity Program for all state government employees . . . to eliminate discrimination in personnel salaries and procedures, job structuring and classification, hiring, firing, promoting and training." Accurate EEO data on state employees is essential in carrying out the objectives of this Order.

Using the EEO Input and Emergency Information Form we seek to obtain reliable, accurate EEO data on state employees. The EEO information is confidential and will be used only for statistical summaries to evaluate fair employment practices. The definitions listed below are included to aid you in completing the form. Talk with your agency EEO Officer or call the EEO Section, State Personnel Division (444-3871) if you have questions about the form.

The Emergency Information section of the form is optional but should be completed if you wish to have someone contacted in the case of an emergency. Any questions concerning the Emergency Information may be directed to your supervisor.

Please complete the form and return it to your supervisor within two days. Thank you for your cooperation in completing the form.

Sincerely,

Ellen Feaver

Ellen Feaver
Director
Department of Administration

American Indian/Alaskan Native - A person having origins in any of the original people of North America, who maintains cultural identification through tribal affiliation or community recognition.

Asian/Pacific Islander - A person having origins in any of the original people of the far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippines and Samoa.

Black - A person having origins in one of the black racial groups of Africa.

Hispanic - A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

Disabled Person - A person having a physical or mental impairment which substantially limits a major life activity (such as walking, caring for oneself, seeing, hearing, speaking, learning or breathing); or has a record of such impairment; or is regarded as having such an impairment.

Emp Instr Input/RON

EXPLANATION OF TABLES ON NEW HIRES, PROMOTIONS, AND TERMINATIONS FOR WOMEN

(Tables on following pages)

Permanent Employees

Statistics on these tables are only on employees categorized as "permanent." Consequently, employment statistics on these tables may differ significantly from other statistical reports for the same time period which include employees not categorized as "permanent" such as those categorized as "temporary."

While employment practices affecting other than permanent employees are monitored through statistical reports for discriminatory effects, statistics on other than permanent employees have been excluded here since they are not as valid in assessing the executive branch's performance in the hiring, termination, and promotion of women.

Agency New Hires

This heading includes every hire of a permanent employee new to a particular agency. The "new hire" may have been an employee of another state agency. Consequently, statistics here should not be interpreted as "new to the executive branch."

Promotion

Any increase in grade or EEO-4 Category level of an employee without a change in which state agency they are employed with.

Category Promotions Only

This heading counts all employees who have changed EEO-4 Categories in receiving a promotion. An example would be an employee promoted from a position in Category B, Professionals; to a position in Category A, Administrators & Officials. Most promotions under this heading would also be "grade promotions" but it is possible that an employee could change from one Category to another without a change in grade.

Grade Promotions Only

This heading counts employees receiving a promotion in grade without a change in EEO Category. The heading "All Promotions" is the best indicator of all employees receiving grade promotions during the time period indicated.

All Agency Terminations

This heading counts all employees who have left a state agency's employment. Data here would include employees who accepted jobs with other state agencies.

Left State Government

This heading counts all state employees who terminated employment with an executive branch agency and did not accept employment with another executive branch state agency.

APPENDIX D

TABLE 1

NEW HIRES AND PROMOTIONS FOR WOMEN
EXECUTIVE BRANCH/PERMANENT EMPLOYEES ONLY

July 1, 1986 through October 27, 1987

	Montana		State	Agency New Hires			All Promotions			Category Promotions Only (to new Category)			Grade Promotion Only (within Category)		
EEO Category	Labor Force % Women	Women No.	Work Force % Women	Total No.	Women No.	Women %	Total No.	Women No.	Women %	Total No.	Women No.	Women %	Total No.	Women No.	Women %
Administrators	30.6	132	20.7	36	14	38.9	68	17	25.0	46	14	30.4	22	3	13.6
Professionals	49.1	1,144	40.0	591	336	56.9	312	164	52.6	143	79	55.2	171	85	49.7
Technicians	49.3	964	54.0	133	84	63.2	255	150	58.8	145	104	71.7	110	46	41.8
Protect. Serv.	11.3	54	9.0	114	18	15.8	67	7	10.5	13	4	30.8	54	3	5.6
Para Prof.	*	462	61.8	156	124	80.0	137	76	55.5	30	22	73.3	107	54	50.5
Clerical	81.8	1,282	89.8	338	317	93.8	154	139	90.3	26	23	88.5	128	116	90.6
Skilled Craft	5.2	32	4.4	19	2	10.5	51	3	5.9	6	2	33.3	45	1	2.2
Serv./ Maint.	*	180	39.8	39	22	56.4	50	29	58.0	7	3	42.9	43	26	60.5
TOTAL	42.6%	4,250	45.9	1,426	917	64.3	1,094	585	53.5	416	251	60.3	680	334	49.1

* Montana labor force figures for the Para-Professional and Service/Maintenance EEO4 categories are not available separately. They are combined and the availability figure is 34.6% for women.

APPENDIX D

TABLE 2

NEW HIRES AND TERMINATIONS FOR WOMEN
EXECUTIVE BRANCH/PERMANENT EMPLOYEES ONLY

July 1, 1986, through October 27, 1987

	Montana	State		Agency New Hires			All Agency Terminations			Left State Government		
EEO Category	Labor Force % Women	Women No.	Work Force % Women	Total No.	Women No.	Women %	Total No.	Women No.	Women %	Total No.	Women No.	Women %
Administrators	30.6	132	20.7	36	14	38.9	98	39	39.8	54	14	25.9
Professionals	49.1	1,144	40.0	591	336	56.9	688	342	49.7	409	182	44.5
Technicians	49.3	964	54.0	133	84	63.2	389	239	61.4	252	145	57.5
Protect. Serv.	11.3	54	9.0	114	18	15.8	127	28	22.0	93	19	20.4
Para Prof.	*	462	61.8	156	124	80.0	253	152	60.1	165	104	63.0
Clerical	81.8	1,282	89.8	338	317	93.8	478	408	85.4	299	264	88.3
Skilled Craft	5.2	32	4.4	19	2	10.5	78	16	20.5	62	13	20.9
Serv./Maint.	*	180	39.8	39	22	56.4	90	41	45.6	62	26	41.9
TOTAL	42.6	4,250	45.9	1,426	917	64.3	2,201	1,265	57.5	1,396	767	54.9

* Montana laborforce figures for the Para-Professional and Service/Maintenance EE04 categories are not available separately. They are combined and the availability figure is 34.6% for women.